

Chapter 3-142 Planning Summary of Changes

Request for Information (RFI)

- Amends language by making it a requirement for state agencies to issue an RFI in preparation for soliciting a request for proposals as part of the process for incorporating community input in the planning process;
- Adds requirement of posting of public notice for RFIs on the Internet to allow for maximum public response and provide equal access;
- Amends format of RFI to require it must be written for the purposes of clarity.
- Adds ability to waive RFI for good cause by head of state agency.
- Clarifies language regarding use of RFI pursuant to section 3-143-614(c)(special procedures when applying for federal discretionary funding).

State Agency Planning Activities

- Amends language to require purchasing agencies to conduct planning activities prior to procurement for services.
- Amends schedule for planning activities for a particular service to require it shall be determined by the length of the contract. Contracts are generally longer than in the past and conditions regarding the service and community needs may have changed between procurements.
- Adds analysis of the contracts data base as a planning activity a state agency may utilize.

HAWAII ADMINISTRATIVE RULES

TITLE 3

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

SUBTITLE 11

PROCUREMENT POLICY BOARD

CHAPTER 142

PLANNING

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SUBCHAPTER 1

PURPOSE AND SCOPE

§3-142-101 Purpose. The purpose of this chapter is to encourage purchasing agencies to adopt uniform planning practices in order to create greater efficiency and economy in the procurement and purchase of health and human services.

§3-142-102 Scope. The provisions of this chapter shall apply to all purchasing agencies purchasing health and human services under chapter 103F, HRS, and these rules.

SUBCHAPTER 2

PLANNING ACTIVITIES AND METHODS

§3-142-201 Planning. (a) Planning is a general term that encompasses different types of activities carried out by different agencies within government and organizations within the community. In order to define clearly the different subsets of planning activities under chapter 103F, HRS, the following categories are established:

- (1) Planning to determine what service to purchase. Purchasing agencies carry out information gathering and analysis with input from funders, other state agencies, client advocacy organizations and providers on how to achieve better results in reaching goals established by statute or funder's conditions, or community planning processes. Purchasing agencies also review the program monitoring and evaluation reports for current contracts. This

subset of planning activities is initiated by the purchasing agency. The scope of a purchasing agency's planning, may be defined by its statutory language;

- (2) Planning to establish procurement schedules and requirements. Chapter 103F, HRS, establishes two advisory groups to assist the administrator with development of procurement instructions to all purchasing agencies. The administrator weighs and considers these recommendations in conjunction with decisions by state policy-makers responsible for budget and expenditure instructions. These instructions guide all purchasing agencies on when and what annual and biennial planning and procurement activities may be carried out. The scope of the instructions is limited to common activities, schedules, or guidelines that affect all purchasing agencies; and
- (3) Planning with provider organizations. Purchasing agencies may seek planning information from providers. Purchasing agencies are encouraged to collaborate with providers through sharing of planning information and analysis that results in improved service specifications for purchased services and progress towards desired outcomes.

§3-142-202 Requests for information. (a) At a minimum a purchasing agency shall prepare a request for information prior to the development of a request for proposals in order to obtain community input and facilitate community planning activities. ~~[A purchasing agency may at any time prepare a request for information in order to facilitate the purchasing agency's planning activities. A request for~~

~~information may be written, oral, issued through electronic media, or any combination of these methods, and may be sent to any knowledgeable person or entity that the purchasing agency deems advisable.]~~

(b) Permissible subjects. A request for information may address any subject relevant to a purchasing agency's planning activities ~~[,]~~ and in preparation for a solicitation, including but not limited to the following:

- (1) Long- and short-term goals and objectives or the objective of a procurement;
- (2) The target population or clients to be served;
- (3) The services the purchasing agency anticipates may be necessary to achieve its goals and objectives; ~~[or]~~
- (4) Service specifications, feasibility, or cost~~[-]~~; or
- (5) Request for expressions of interest to provide a service.

(c) Form of request. ~~[A]~~ At a minimum, a request for information shall be in writing and shall include:

- (1) A description of the information being sought;
- (2) The procedure for responding;
- (3) A statement that participation is optional, and is not required to respond to any subsequent procurement action a purchasing agency may take;
- (4) A statement that neither the purchasing agency nor the interested party responding has any obligation under the request for information.

A request for information may also include an oral presentation, meeting, telephone survey, be issued through electronic media, or any combination of these methods, and may be sent to any knowledgeable person or entity that the purchasing agency deems advisable.

(d) Public notice. Public notice shall be given for all requests for information in accordance

with section 3-141-406 and shall be posted for a minimum of seven days.

(e) Waiver for good cause. When the nature and circumstances of the service and the community need remain unchanged the head of a purchasing agency may waive compliance with the issuance of a request for information established under this section. The waiver shall be in writing and shall include an explanation of the circumstances justifying the waiver. The written waiver shall be placed in the procurement file and included in the request for proposals.

(f) Requests for information may be issued more frequently if deemed necessary by the purchasing agency.

§3-142-203 Collaboration of providers. (a) Purchasing agencies may ask providers to participate in purchasing agency planning activities in order to create greater efficiency, responsiveness, and organization in meeting the health, social and economic needs of the various communities.

(b) Areas for collaboration. Specific areas for collaboration with providers may include, but are not limited to:

- (1) Sharing of information on community needs;
- (2) Determination of best practices;
- (3) Inventory of available resources;
- (4) Budgetary or cost factors;
- (5) Configuration of services; and
- (6) Recommendations for service specifications and requirements.

(c) No disqualification from procurement. Uncompensated provider participation is encouraged, and such involvement shall not disqualify any responsible provider from responding to any subsequent procurement actions a purchasing agency may take.

(d) No exemption from anti-competitive practices. The collaborative practices permitted under this section shall not be construed to create an

exemption to allow anti-competitive practices otherwise prohibited by federal, state or county law.

SUBCHAPTER 3

STATE AGENCY PLANNING

§3-142-301 State agency planning activities.

(a) In order to make decisions on the type and amount of services to purchase, purchasing agencies may carry out planning activities, including, but not limited to, the following activities:

- (1) Receiving information from funders, including the legislature, federal agencies, and private foundations on funding terms and conditions;
- (2) Asking for information from other state agencies on services to the same community, families, children, adults, or school, or on cooperative strategies to make progress towards achieving a shared goal;
- (3) Utilizing the contracts data base to analyze information on similar services, services to the same community or target groups and utilizing reports and analyses of the contracts data base issued by the administrator.
- ~~[3]~~ (4) Taking into account the views of service recipients and community advocacy organizations on conditions affecting the achievement of mandated goals;
- ~~[4]~~ (5) Taking into account the views of provider organizations on how to improve service specifications in order to better achieve mandated goals; a request for information may be utilized as provided in section 3-142-202;

- [5](6) Analyzing information from program monitoring and evaluation reports for current contacts; and
- [6](7) Analyzing socio-economic and health data for trends, and analyzing waiting lists and client satisfaction surveys to determine demand factors.

(b) Agencies determine planning activities. Purchasing agencies ~~{may}~~ shall determine which ~~[, if any,]~~ of the above types of planning activities they will carry out, and at which time intervals, based on the type of service being purchased, the availability of staff and resources; and the scope of purchasing agency discretion to adjust the type or amount of services being purchased. When a competitive procurement is subsequently conducted planning activities utilized shall be listed in the request for proposals.

(c) Planning information part of budgeting. Planning information shall be considered in the purchasing agency's biennium budgeting process, but does not solely determine budget recommendations. Purchasing agency budget recommendations are subject to decision-making at the departmental and executive levels in order to ensure accordance with statewide program and fiscal priorities.

(d) Public inspection of planning information activities. Planning activities considered in purchasing agency budgeting and purchasing decisions shall be referenced in writing in the request for proposals and the listing made available for inspection by the public.

§3-142-302 State agency planning schedule. The schedule for planning activities for a particular service ~~[will normally]~~ shall be determined by the length of the contract or contracts for that service, for example, every two years for two year contracts, every four years for four year contracts, and so on.

SUBCHAPTER 4

STATE PROCUREMENT OFFICE PLANNING

§3-142-401 State procurement office planning activities. (a) The administrator may carry out the planning activities provided in this subchapter prior to establishing procurement instructions to all purchasing agencies. The administrator shall weigh and consider the advice of the interagency committee and the community council as provided in this section.

(b) The interagency committee on purchase of health and human services. The interagency committee, which is composed of heads of purchasing agencies or their designated representatives, shall assist the administrator on matters including, but not limited to:

- (1) How, when, and on what issues, to secure input from providers to facilitate purchasing agency decision-making;
- (2) Schedules for planning and purchasing health and human services;
- (3) Criteria to evaluate proposals for competitive and restrictive purchase of services; and
- (4) Education and training needs of purchasing agencies and providers.

(c) The community council. The community council, which is composed of nine appointed members and one ex-officio member of the interagency committee, shall assist the administrator with advice on matters including, but not limited to:

- (1) When, and on what issues, to secure input from providers to facilitate purchasing agency decision-making and how to facilitate provider participation in purchasing agency planning and purchasing;
- (2) Schedules for planning and purchasing health and human services;

- (3) Criteria to evaluate proposals for competitive and restrictive purchase of services;
- (4) Education and training needs of purchasing agencies and providers; and
- (5) Market or business concerns facing providers that may affect the availability of services and the scope of competition.

(d) No conflicts with other authorized policies. The administrator shall issue instructions that incorporate, and do not conflict with, current Governor's executive orders, state comptroller's administrative directives, and attorney general's opinions that may, by statute, establish guidelines or instructions to purchasing agencies which restrict or direct the budgeting, contracting and expenditure of public funds.

§3-142-402 State procurement office planning schedule. Instructions from the administrator that cover topics including but not limited to, issues listed in section 3-142-401 will normally be issued to purchasing agencies in coordination with budgeting and expenditure instructions that are issued on an annual or biennial basis. Information to assist the administrator from the interagency committee and the community council may be provided on an annual or biennial basis, as appropriate.

§3-142-403 Assistance in provider planning. (a) In order to assist providers to plan their organizations' budgets and staff levels on a predictable and timely basis, the administrator shall make information on anticipated purchases public annually.

(b) Planned purchases. Purchasing agencies shall issue, on an annual basis, submit a list of services that indicates whether each service is new or continuing, which they anticipate purchasing in the

coming year, and the anticipated method of procurement. The purchasing agencies shall transmit their reports to the administrator by the first day of September of the prior fiscal year.

(c) Consolidated report of planned purchases.

The administrator shall prepare a consolidated report of the services that purchasing agencies anticipate purchasing in the coming year. The administrator shall give notice of the report and distribute copies of the report in a manner reasonably calculated to provide fair and equal access to all providers that might be interested in competing to provide the anticipated services.

(d) Changes allowed. The lists and consolidated report shall not obligate purchasing agencies to solicit proposals for any service included, because purchasing agencies may experience changes to planned expenditures after the report is made available to interested providers.